



WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990

I, JENNIFER MARY SHIPLEY, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *2nd* day of *December* 1997

by **JENNIFER MARY SHIPLEY**

A handwritten signature in black ink, appearing to read "J. Shipley", followed by a long, sweeping horizontal line that extends to the right and then curves downwards.

Minister of Transport

Civil Aviation Rules

Part 91, Amendment 3

Docket Nr. 1037 and 1106

Civil Aviation Rules
Part 91, Amendment 3

RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

The objective of Part 91, Amendment 3 is to bring into force the necessary changes that result from the coming into force of Parts 71 and 73 of the Civil Aviation Rules. Consultation regarding this amendment was conducted as part of the consultation process under those Parts and the consultation details are contained in the summary of consultation details attached to Parts 71 and 73 that was signed by the Minister.

In May 1990 the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. This notice, in Civil Aviation Information Circular Air 3, listed the areas in which rules would be made and invited interested parties to register their wish to be part of the consultative process. The Register was identified as the Regulatory Review Consultative Group.

A draft of Part 71 and 73, which included the proposed changes to Part 91, was developed by the rules rewrite team in consultation with members of the Regulatory Review Consultative Group. An informal draft was published and distributed in 22 July 1996 and a period of informal consultation followed. This culminated in the issue of Notice of Proposed Rulemaking 97-3 under Dockets 1037 and 1106 on 19 March 1997.

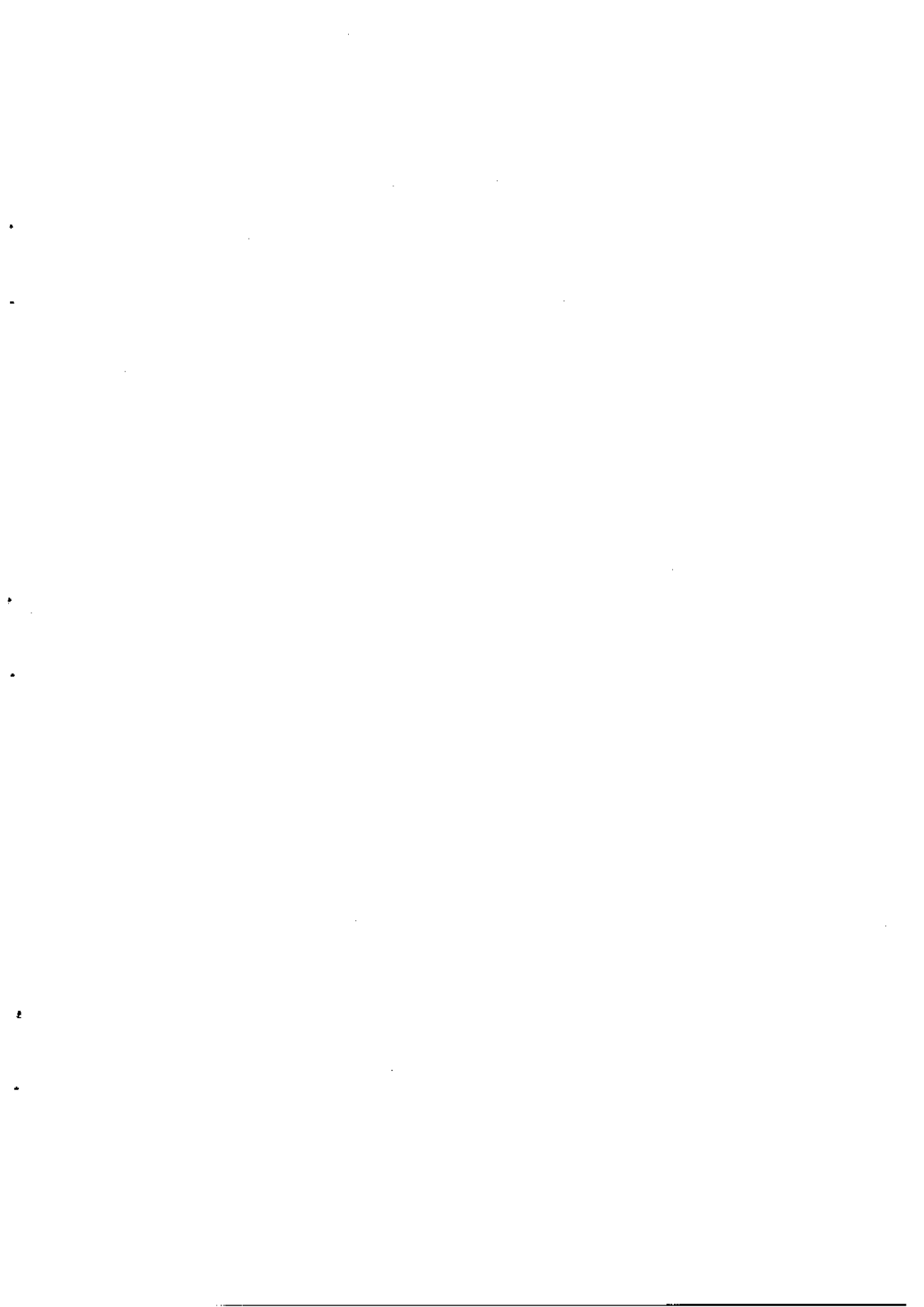
The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 19 March 1997. The notice was mailed to members of the Regulatory Review Consultative Group and to other parties who were considered likely to have an interest in the proposal.

A period of 30 days was allowed for comment on the proposed rule.

The submissions and verbal comments were considered and where appropriate the proposed rules amended to take account of the comments made.

The rules as amended were then referred to and signed by the Minister of Transport.

Part 91, Amendment 3 comes into force 28 days after its notification in the *Gazette*.



Part 91, Amendment 3

91.129 is revoked and the following new rule inserted:

“91.129 Restricted and danger areas

(a) No pilot shall operate an aircraft within a restricted area designated under Part 73 unless that pilot has the approval of the controlling authority specified for the area under Part 73 to operate within that area; and

(b) No person shall operate an aircraft within a danger area designated under Part 73 unless that person has established, after due consideration of the type of activity for which that area is designated as a danger area, that that activity will not affect the safety of the aircraft.”

Insert the following new rules after 91.131:

“91.133 Military operational areas

No pilot shall operate an aircraft within a military operational area unless that pilot—

- (1) if that area is within the territorial limits of New Zealand, has the approval of the controlling authority specified for that area under Part 73 to operate within that area; and
- (2) if that area is not within the territorial limits of New Zealand, but is within an area to which this Part applies, has given notification of the details of the flight to the controlling authority.

91.135 Conditional areas

(a) No pilot shall operate an aircraft within an approach conditional area unless that pilot—

- (1) operates the aircraft no closer than 1000 feet vertically and one nm horizontally from cloud and with visibility of at least 5 km; or

- (2) establishes that no aircraft is conducting an instrument approach procedure by maintaining two-way radio communications on the appropriate frequency.
- (b) No pilot shall operate an aircraft within a mandatory broadcast zone unless that pilot—
- (1) broadcasts—
 - (i) on the radio frequency prescribed under Part 73, the aircraft's callsign, position, altitude, and that pilot's intentions, at entry and exit; and
 - (ii) at an interval not exceeding ten minutes unless another interval is prescribed under Part 73 in which case that prescribed interval shall be complied with; and
 - (2) activates, if equipped, the aircraft's landing lights or anti-collision lights.

91.137 Volcanic hazard areas

- (a) No pilot shall operate an aircraft in IMC or by night in a volcanic hazard area specified under Part 73.
- (b) No pilot shall operate an aircraft in VMC by day in a volcanic hazard area specified under Part 73 unless that pilot determines that, after due consideration of any relevant meteorological information contained in NOTAMS, flight in the area will not affect the safety of the aircraft.

91.139 General aviation areas

- No pilot shall operate an aircraft within a general aviation area, other than a general aviation area that is effective permanently during day, unless—
- (1) where the airspace is made effective upon approval by the ATC having primary jurisdiction over the airspace, such approval has been given by the ATC unit to operate within that area; or

- (2) where the airspace is made effective upon notification to the ATC having primary jurisdiction over the airspace—
 - (i) notification has been given to the ATC unit to activate the area; and
 - (ii) the ATC unit has not elected not to make it effective.

91.141 Aerodrome traffic zones

(a) Except as provided in paragraph (b), no pilot shall operate an aircraft within an aerodrome traffic zone except for the purpose of taking-off from, or landing at, an aerodrome within that aerodrome traffic zone.

(b) A pilot may operate an aircraft within an aerodrome traffic zone for a purpose other than that specified in paragraph (a) provided that the pilot—

- (1) conforms with, or avoids, the aerodrome traffic circuit formed by other aircraft taking-off from, or landing at, an aerodrome within that aerodrome traffic zone; and
- (2) broadcasts, on the frequency prescribed under Part 73, details of the pilot's intended use of the aerodrome traffic zone prior to, and during, operations within that aerodrome traffic zone."

Amend 91.245 by substituting paragraph (e) with the following:

"(e) Where different classes of airspace adjoin one above the other, at the common level, a pilot may comply with the requirements of the less restrictive class of airspace."